

Sent to Governor
(April 25, 1983)

S.C.R. 20

S.C.R. 44

S.C.R. 60

S.B. 228

S.B. 421

S.B. 435

S.B. 739

FIFTY-SEVENTH DAY

(Tuesday, April 26, 1983)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

A quorum was announced present.

Father Don Sawyer, Our Lady of Lebanon Maronite Church, Austin, offered the invocation as follows:

O God of power and might, we again present ourselves and our needs to Your loving care. In order to fulfill their responsibilities in the government of Texas, we beseech You to give all who are assembled here Your light, the moral strength of character and personal integrity to adhere to the commitments made by them to and for all the citizens of this great State. Protect and guide them in all matters that they will be called upon to solve and settle. May You make clear to each of them the solutions and decisions that are truly just and equitable for all and not just for any particular individual or group. May their love and regard for each other reflect Your infinite love and be seen in kind consideration and respect for all in this assembly. Help them to work for the common good, without seeking any self-glorification or gratification. As Your children, O Heavenly Father, we ask that You answer our petitions and accept our worship, praise and honor in the holy name of Jesus Christ, Our Saviour, Who lives and reigns with You in the unity of the Holy Spirit, one God forever and forever. Amen.

May we now go to the fulfillment of this day in the peace and joy of the love of God!

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
April 26, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 127, Relating to the authority of a county to donate money to a crime stoppers organization and establishing limits to the yearly amount donated by the county.

S.B. 168, Relating to the regulation of health insurance policies and employee benefit plans which provide benefits for dental care expenses as a result of an accident or sickness. (With amendments)

S.B. 214, Relating to retaining the protective services for the elderly program in the Department of Human Resources.

S.B. 282, Relating to a supplemental appropriation to the General Land Office.

S.B. 358, Relating to the issuance of certificates of indebtedness by general-law cities and towns to fund certain court judgments, decrees, or settlements.

S.B. 396, Relating to the establishment of the Board of Pardons and Paroles as a statutory agency and the power of the board to revoke paroles. (With amendments)

S.B. 445, Making appropriations to the attorney general's office for general operating purposes and for legal work relating to highways.

S.B. 467, Relating to an appropriation to the Department of Mental Health and Mental Retardation to pay utility costs incurred at its facilities.

H.B. 296, Relating to the licensing and regulation of electricians and electrical contractors.

H.B. 355, Relating to the pay of election judges and clerks.

H.B. 723, Relating to the basic skills assessment instrument required in public schools.

H.B. 1147, Relating to the improvement of the teaching of mathematics and science in the public schools, declaring state intent for improvement of instruction in the teaching of mathematics and science and providing pilot programs.

H.B. 1775, Relating to payment of certain oil and gas proceeds.

S.C.R. 90, Extending welcome to Mrs. Rosalynn Carter to the State Capitol.

S.C.R. 91, Encouraging all Texans to join the dedicated volunteers and professionals who work on behalf of the mentally ill and their families in celebrating the progress in mental health care since the first ringing of the Mental Health Bell.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Parmer, Acting Chairman, submitted the following report for the Committee on Health and Human Resources:

S.B. 1257

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

H.B. 642 (Amended)
 C.S.S.B. 381 (Read first time)
 C.S.S.B. 450 (Read first time)
 C.S.S.B. 1197 (Read first time)
 C.S.S.B. 906 (Read first time)

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 1338
 S.B. 773 (Amended)
 H.B. 1121 (Amended)
 S.B. 1098
 S.B. 964 (Amended)
 S.B. 369 (Amended)
 S.B. 41
 S.B. 824 (Amended)
 S.J.R. 28
 S.B. 771
 S.B. 772
 S.B. 825
 C.S.S.B. 1099 (Read first time)
 C.S.S.B. 1079 (Read first time)

Senator Jones submitted the following report for the Committee on Finance:

C.S.S.B. 179 (Read first time)

SENATE BILL AND RESOLUTIONS ON FIRST READING

On motion of Senator Sharp and by unanimous consent, the following bill and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 1351 by Sharp Intergovernmental Relations
 Relating to the validation of the adoption of and operation under a municipal home-rule charter.

S.C.R. 92 by Traeger Administration
 Granting James S. Stallings permission to sue the State.

S.C.R. 93 by Doggett Administration
 Granting Ericelda Flores permission to sue the State.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 18, To Committee on State Affairs.
 H.B. 65, To Committee on State Affairs.
 H.B. 134, To Committee on Intergovernmental Relations.
 H.B. 230, To Committee on Intergovernmental Relations.
 H.B. 385, To Committee on Intergovernmental Relations.
 H.B. 525, To Committee on Natural Resources.
 H.B. 532, To Committee on Finance.
 H.B. 533, To Committee on Jurisprudence.
 H.B. 624, To Committee on Intergovernmental Relations.
 H.B. 713, To Committee on Intergovernmental Relations.

H.B. 719, To Committee on Health and Human Resources.
H.B. 722, To Committee on Education.
H.B. 747, To Committee on Jurisprudence.
H.B. 777, To Committee on Intergovernmental Relations.
H.B. 852, To Committee on Jurisprudence.
H.B. 885, To Committee on State Affairs.
H.B. 930, To Committee on Natural Resources.
H.B. 936, To Committee on Education.
H.B. 962, To Committee on Finance.
H.B. 965, To Committee on Intergovernmental Relations.
H.B. 1122, To Committee on State Affairs.
H.B. 1145, To Committee on Natural Resources.
H.B. 1187, To Committee on Intergovernmental Relations.
H.B. 1189, To Committee on Intergovernmental Relations.
H.B. 1216, To Committee on State Affairs.
H.B. 1293, To Committee on State Affairs.
H.B. 1299, To Committee on Health and Human Resources.
H.B. 1422, To Committee on Economic Development.
H.B. 1427, To Committee on Economic Development.
H.B. 1475, To Committee on Intergovernmental Relations.
H.B. 1510, To Committee on Natural Resources.
H.B. 1618, To Committee on State Affairs.
H.B. 1678, To Committee on State Affairs.
H.B. 1741, To Committee on Jurisprudence.
H.B. 1743, To Committee on Intergovernmental Relations.
H.B. 1818, To Committee on State Affairs.
H.B. 1846, To Committee on State Affairs.
H.B. 1925, To Committee on Intergovernmental Relations.
H.B. 1936, To Committee on Health and Human Resources.
H.B. 1953, To Committee on Natural Resources.
H.B. 1958, To Committee on Education.
H.B. 2002, To Committee on Economic Development.
H.B. 2009, To Committee on Intergovernmental Relations.
H.B. 2119, To Committee on Intergovernmental Relations.
H.B. 2143, To Committee on Economic Development.
H.B. 2292, To Committee on Natural Resources.
H.B. 2301, To Committee on Intergovernmental Relations.
H.B. 2304, To Committee on Natural Resources.
H.B. 2306, To Committee on Natural Resources.
H.C.R. 97, To Committee on Economic Development.

SENATE RESOLUTION 522

Senator Henderson offered the following resolution:

S.R. 522, Commending Gustav Likan on his distinguished career as an artist and extending best wishes to him on his exhibition in Germany.

HENDERSON
DOGETT

The resolution was read and was adopted.

SENATE BILL 343 WITH HOUSE AMENDMENT

Senator McFarland called S.B. 343 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1 - English

Amend page 2, lines 1 and 2, to read:

“(C) rape, aggravated rape, sexual abuse, aggravated sexual abuse, rape of a child, sexual abuse of a child;

The amendment was read.

Senator McFarland moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 617 WITH HOUSE AMENDMENT

Senator Williams called **S.B. 617** from the President’s table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Hanna

Substitute the following for **S.B. 617**:

A BILL TO BE ENTITLED AN ACT

relating to regulation of compressed natural gas by the Railroad Commission of Texas; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Natural Resources Code, is amended by adding Chapter 116 to read as follows:

CHAPTER 116. COMPRESSED NATURAL GAS **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 116.001. **DEFINITIONS.** In this chapter:

- (1) “Commission” means the Railroad Commission of Texas.
- (2) “Compressed natural gas” means natural gas that is compressed and used, stored, sold, transported, or distributed for use by or through a CNG system.
- (3) “CNG cylinder” means a cylinder or other container designed for use or used as part of a CNG system.
- (4) “CNG system” means a system of safety devices, cylinders, piping, fittings, valves, compressors, regulators, gauges, relief devices, vents, installation fixtures, and other compressed natural gas equipment intended for use or used in any building or public place by the general public or in conjunction with a motor vehicle fueled by compressed natural gas and any system of equipment designed to be used or used in the compression, sale, storage, transportation for delivery, or distribution of compressed natural gas in portable CNG cylinders, but does not include a natural gas pipeline located upstream of the inlet of the compressor.
- (5) “Motor vehicle” means a self-propelled vehicle licensed for highway use or used on a public highway.
- (6) “Compressed natural gas cargo tank” means a container in accordance with A.S.M.E. or D.O.T. specifications and used to transport compressed natural gas for delivery.

Sec. 116.002. **EXCEPTIONS.** This chapter does not apply to:

- (1) the production, transportation, storage, or distribution of natural gas that is not included in the definition of compressed natural gas; or

(2) pipelines, fixtures, and other equipment used in the natural gas industry that are not used or designed to be used as part of a CNG system.

[Sections 116.003-116.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 116.011. **ADMINISTRATION.** The commission shall administer and enforce this chapter and rules and standards adopted under this chapter relating to compressed natural gas.

Sec. 116.012. **RULES AND STANDARDS.** To protect the health, safety, and welfare of the general public, the commission shall adopt necessary rules and standards relating to compressed natural gas work and operations.

Sec. 116.013. **NATIONAL CODES.** The commission may adopt by reference in its rules all or part of the published codes of nationally recognized societies as standards to be met in the design, construction, fabrication, assembly, installation, use, and maintenance of compressed natural gas components and equipment.

Sec. 116.014. **FEES.** (a) Fees collected by the commission under Section 116.034 of this code for training, examinations, and seminars must be deposited in a special fund in the state treasury designated as the compressed natural gas examination fund. The commission shall use money in this fund to pay the cost of training, examinations, and seminars furnished or administered by the commission.

(b) Except as provided by Subsection (a) of this section, money collected by the commission as fees under this chapter shall be deposited in the general revenue fund.

Sec. 116.015. **ENTRY ON PROPERTY; INSPECTION.** An employee, agent, or inspector of the commission may enter property of a person licensed under this chapter at any reasonable time and may inspect any motor vehicle equipped with compressed natural gas equipment to determine if the licensee is complying with or if the motor vehicle is in compliance with this chapter and rules of the commission adopted under this chapter.

[Sections 116.016-116.030 reserved for expansion]

SUBCHAPTER C. LICENSING

Sec. 116.031. **LICENSE REQUIREMENT.** (a) Unless a person has obtained a license from the commission under this chapter, the person may not engage in the following work:

(1) cylinder work that includes the manufacture, assembly, repair, sale, installation, or subframing of CNG cylinders for use in this state;

(2) systems work that includes the sale, installation, service, or repair of CNG systems for use in this state; or

(3) product work that includes the sale, storage, transportation for delivery, or dispensing of compressed natural gas in this state.

(b) A license obtained by a partnership, corporation, or other legal entity extends to the entity's employees who are performing compressed natural gas work, provided that each employee is qualified as required by rules adopted by the commission.

Sec. 116.032. **LICENSE CATEGORIES AND FEES.** (a) The commission shall adopt rules establishing license categories and license fees to be charged for application for and issuance and renewal of licenses in each category.

(b) The commission may establish fees for each category of license. A fee may not exceed \$1,000.

Sec. 116.033. **APPLICATION AND RENEWAL PROCEDURES.** The commission shall adopt rules establishing procedures for submitting and processing applications for issuance and renewal of licenses.

Sec. 116.034. **EXAMINATION AND SEMINAR REQUIREMENTS.** (a) The commission shall adopt rules providing the training, examination, and seminar attendance requirements for persons who wish to be licensed under this chapter.

(b) The commission may adopt a reasonable fee to cover the cost of any training, examination, or seminar required by and furnished or administered by the commission.

(c) Before a license may be issued, the person to be licensed must satisfactorily complete the training, examinations, and seminars required by the commission.

Sec. 116.035. DENIAL OF LICENSE. The commission may deny issuance or renewal of a license to any person who fails to qualify under the requirements of this chapter and rules adopted by the commission under this chapter. The commission shall give written notice to an applicant for the issuance or renewal of a license of the denial of the license and the reasons for denial.

Sec. 116.036. INSURANCE REQUIREMENT. (a) A person licensed under this chapter must acquire and maintain appropriate workers' compensation and other insurance coverage required by the commission in the amounts required by the commission.

(b) The commission shall adopt rules establishing specific requirements for insurance coverage under this chapter. The types and amounts of insurance coverage required by the commission shall be based on the type and category of licensed activity.

(c) The commission may not issue or renew a license and a licensee may not perform any licensed activity unless the insurance coverage required by the commission's rules is in effect and evidence of that coverage is filed with the commission as required by commission rule.

Sec. 116.037. SUSPENSION AND REVOCATION OF LICENSE. (a) The commission shall notify a licensee in writing if it finds probable violation or noncompliance with this chapter or the rules adopted under this chapter.

(b) The notice shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The licensee shall report timely compliance or shall request extension of time for compliance if considered necessary.

(d) If a licensee objects to the complaint or requirements under this section, or if the commission determines that the licensee is not proceeding adequately to compliance, then, on written request of the licensee or order of the commission, a public hearing must be conducted.

(e) If the commission or division determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing.

(f) If the commission finds that the licensee has violated or failed to comply with or is violating or failing to comply with this chapter or a rule adopted under this chapter, the commission may suspend the license for a definite period not to exceed 90 days or may revoke the license.

(g) Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

[Sections 116.038-116.070 reserved for expansion]

SUBCHAPTER D. MOTOR VEHICLE REGULATION

Sec. 116.071. REGISTRATION RULES. The commission shall adopt rules relating to the registration of motor vehicles that are equipped with compressed natural gas cargo tanks and motor vehicles used principally to transport compressed natural gas in portable cylinders.

Sec. 116.072. REGISTRATION. Each motor vehicle that is equipped with a compressed natural gas cargo tank and each motor vehicle used principally to transport compressed natural gas in portable cylinders must be registered with the commission as provided by commission rules.

Sec. 116.073. SAFETY RULES. The commission shall adopt safety rules relating to the transportation of compressed natural gas in this state.

Sec. 116.074. COOPERATION OF THE DEPARTMENT OF PUBLIC SAFETY. The Department of Public Safety shall cooperate with the commission in administering and enforcing this chapter and rules of the commission relating to regulation of motor vehicles required to be registered under this subchapter.

Sec. 116.075. SUSPENSION AND REVOCATION OF REGISTRATION. (a) The commission shall notify a registrant in writing if it finds probable violation or noncompliance with this chapter or the safety rules adopted under this chapter.

(b) The notice shall specify the particular acts, omissions, or conduct comprising the alleged violation and shall designate a date by which the violation must be corrected or discontinued.

(c) The registrant shall report timely compliance or shall request extension of time for compliance if considered necessary.

(d) If a registrant objects to the complaint or requirements under this section, or if the commission determines that the registrant is not proceeding adequately to compliance, then, on written request of the registrant or order of the commission, a public hearing must be conducted.

(e) If the commission or division determines that the probable violation or noncompliance constitutes an immediate danger to the public health, safety, and welfare, it shall require the immediate cessation of the probable violation or noncompliance and proceed with a hearing.

(f) If the commission finds that the registrant has violated or failed to comply with or is violating or failing to comply with this chapter or a rule adopted under this chapter, the commission may suspend the registration for a definite period not to exceed 90 days or may revoke the registration.

(g) Any party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

Sec. 116.076. APPLICATION OF OTHER LAWS. This chapter and the rules adopted under this chapter do not modify, amend, or repeal any laws of this state relating to the regulation of motor carriers.

[Sections 116.077-116.100 reserved for expansion]

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Sec. 116.101. MALODORANTS. Compressed natural gas must be odorized as provided by Section 2, Article 6053, Revised Statutes.

Sec. 116.102. TESTING LABORATORIES. The commission shall adopt rules relating to testing compressed natural gas equipment and to the qualifications required of the persons who are to perform those tests.

Sec. 116.103. WARNING TAGS. (a) An employee, agent, or inspector of the commission may declare unsafe or dangerous for service any motor vehicle required to be registered under this chapter, compressed natural gas equipment, or CNG system that is defective or that does not otherwise conform to the safety requirements of this chapter and the rules adopted under this chapter and shall attach a warning tag to the motor vehicle, equipment, or system in a conspicuous location.

(b) A person may not sell, furnish, deliver, or supply compressed natural gas for use or consumption by or through a motor vehicle or system in a public place or operate a motor vehicle having compressed natural gas equipment to which a warning tag is attached.

(c) A warning tag may be removed on approval of the commission or by a person designated by the commission to remove the tag. A warning tag may not be removed by any person who is not authorized to remove the tag by the commission.

[Sections 116.104-116.140 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 116.141. INJUNCTIVE RELIEF. (a) On request of the commission, the attorney general shall bring suit in the name of the state to enjoin a person from violating this chapter or a rule adopted under this chapter.

(b) A suit for injunction instituted under this section is in addition to other remedies available to the commission under this chapter.

(c) A suit seeking injunctive relief under this section shall be brought in a district court in Travis County.

(d) The commission is not required to provide a bond in a suit instituted under this section.

Sec. 116.142. CRIMINAL PENALTY. (a) A person who knowingly violates this chapter or rules adopted by the commission under this chapter commits an offense.

(b) An offense under this section is punishable by a fine of not less than \$100 nor more than \$5,000.

(c) Each day a violation continues constitutes a separate offense.

Sec. 116.143. ADMINISTRATIVE PENALTY. (a) If a person violates this chapter, a rule of the commission adopted under this chapter, or a term, condition, or provision of a license or registration issued by the commission under this chapter and the violation results in pollution of the air or water of this state or poses a threat to the public safety, the person may be assessed a civil penalty by the commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the person's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged.

Sec. 116.144. PENALTY ASSESSMENT PROCEDURE. (a) A civil penalty under Section 116.145 of this code may be assessed only after the person charged with the violation has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The commission shall then issue an order requiring that the penalty be paid.

Sec. 116.145. PAYMENT OF PENALTY; REFUND. (a) On the issuance of notice or an order charging that a violation has occurred, the commission shall inform the person charged within 30 days of the proposed amount of the penalty.

(b) Within the 30-day period immediately following the day on which the notice or order is issued, the person charged with the penalty shall pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the commission for placement in an escrow account.

(c) If through administrative or judicial review of the proposed penalty it is determined that no violation occurred or that the amount of the penalty should be reduced, the commission shall, within the 30-day period immediately following that

determination, remit the appropriate amount to the person, with interest at the prevailing United States Department of the Treasury rate.

(d) Failure to forward the money to the commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Sec. 116.146. RECOVERY OF PENALTY. Civil penalties owed under Sections 116.143-116.145 of this code may be recovered in a civil action brought by the attorney general at the request of the commission.

SECTION 2. Subsection (c), Section 3, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C));

(2) the conveyance, transmission, or reception of communications over a telephone system; provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system; and provided further that nothing in this Act shall be construed to apply to telegraph services, services of specialized communications common carriers not providing local exchange telephone service, television stations, radio stations, community antenna television services, radio-telephone services that may be authorized under the Domestic Public Land Mobile Radio Service or Rural Radio Service rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies;

(3) transmitting or distributing combustible hydrocarbon natural or synthetic natural gas for sale or resale in a manner which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C.A., Section 717 et seq.) ("gas utilities" hereinafter) provided that the production, gathering, transportation, or sale of natural gas or synthetic gas under Section 4, Article 6050, Revised Civil Statutes of Texas, 1925, as amended, the distribution or sale of liquified petroleum or compressed natural gas, and the transportation, delivery, or sale of natural gas for fuel for irrigation wells or any other direct use in agricultural activities is not included;[-]

(4) the transmitting, storing, distributing, selling, or furnishing of potable water to the public or for resale to the public for any use, or the collection, transportation, treatment, or disposal of sewage, or other operation of a sewage disposal service for the public, other than equipment or facilities owned and operated for either purpose by a city, town or other political subdivision of this state or a water supply or sewer service corporation. The term "public utility" or "utility" shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term "electric utility" shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility, if the equipment or facilities are used primarily for the

production and generation of electric energy for consumption by the person or corporation.

SECTION 3. This Act takes effect September 1, 1983.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Williams moved to concur in the House amendment.

The motion prevailed.

COMMITTEE SUBSTITUTE SENATE BILL 812 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 812, Relating to insurance coverage for the services of certain audiologists, speech pathologists, and language pathologists.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 812 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 812** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE SENATE BILL 1014 ON SECOND READING

Senator Montford asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1014, Relating to the courses and course levels offered at The University of Texas of the Permian Basin.

There was objection.

Senator Montford then moved to suspend the regular order of business and take up **C.S.S.B. 1014** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 9.

Yeas: Blake, Brooks, Edwards, Glasgow, Harris, Henderson, Howard, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Uribe, Vale, Whitmire, Williams.

Nays: Caperton, Doggett, Farabee, Jones, Mauzy, Sarpalius, Sims, Truan, Washington.

Absent: Brown.

The bill was read second time and was passed to engrossment by the following vote: Yeas 18, Nays 12.

Yeas: Blake, Brooks, Edwards, Glasgow, Harris, Henderson, Kothmann, Lyon, Montford, Parker, Parmer, Santiesteban, Sharp, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Caperton, Doggett, Farabee, Howard, Jones, Leedom, Mauzy, McFarland, Sarpalius, Sims, Traeger, Truan.

Absent: Brown.

**MOTION TO PLACE COMMITTEE SUBSTITUTE SENATE BILL 1014
ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 1014 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 23, Nays 8. (Not receiving four-fifths vote of the Members present)

Yeas: Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Kothmann, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sharp, Traeger, Uribe, Vale, Whitmire, Williams.

Nays: Doggett, Jones, Leedom, Mauzy, Sarpalius, Sims, Truan, Washington.

MESSAGE FROM THE HOUSE

House Chamber
April 26, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 859, Relating to a requirement that a law enforcement agency that transfers a defendant to the custody of the Texas Department of Corrections provide the department with a written description of the offense.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

H.C.R. 43
H.C.R. 49
H.C.R. 66
H.C.R. 74
H.C.R. 150
H.C.R. 155
H.C.R. 164
H.C.R. 167
H.C.R. 168
H.C.R. 169
H.B. 166
H.B. 600
H.B. 687
H.B. 691
H.B. 1214

S.B. 89
S.B. 176
S.B. 302
S.B. 316
S.B. 332
S.B. 333
S.B. 506
S.B. 531
S.B. 595
S.B. 658
S.B. 664
S.B. 989
S.B. 1095

COMMITTEE SUBSTITUTE SENATE BILL 1298 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1298, Relating to fees collected by the Department of Agriculture; amending the Agriculture Code by amending Subsections (c), (d), (g), (h), and (i), Section 13.115; Subsection (b), Section 14.005; Subsection (c), Section 16.002; Subsection (c), Section 51.023; Subsection (a), Section 76.044; Section 101.006; Section 102.006; Subsection (c), Section 132.026; Subsection (c), Section 132.027; and Section 132.028.

The bill was read second time and was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1298 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1298** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed.

MOTION TO ADJOURN

Senator Parker moved that the Senate stand adjourned until 11:00 o'clock a.m. tomorrow.

The motion was lost by the following vote: Yeas 2, Nays 29.

Yeas: Parker, Truan.

Nays: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Uribe, Vale, Washington, Whitmire, Williams.

COMMITTEE SUBSTITUTE SENATE BILL 440 ON THIRD READING

Senator Harris moved to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

C.S.S.B. 440, Relating to the regulation and licensing of pari-mutuel wagering on horse racing; providing penalties.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Brooks, Doggett, Glasgow, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire.

Nays: Blake, Brown, Caperton, Edwards, Farabee, Howard, Jones, Leedom, Sarpalius, Williams.

The bill was read third time.

Senator Montford offered the following amendment to the bill:

Amend C.S.S.B. 440 as follows:

- (1) On page 4, line 49, between "deposit" and "the" insert "five-eighths of".
- (2) On page 4, line 50, strike "percentage" and substitute "share".
- (3) On page 4, line 53, between "Code." and "The" insert the following:

The comptroller shall deposit three-eighths of the state's share of each pari-mutuel pool to the credit of the Texas Water Development Fund created under Article III, Section 49-c, of the Texas Constitution.

- (4) On page 8, line 35, strike "15" and substitute "18".

- (5) On page 8, line 38, strike "five" and substitute "eight".

The amendment was read and was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Blake, Brooks, Brown, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Parker, Santiesteban, Sarpalius, Sharp, Sims, Uribe, Washington, Whitmire, Williams.

Nays: Caperton, Mauzy, Parmer, Traeger, Truan, Vale.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

Senator Parker requested a full reading of C.S.S.B. 440 as amended.

Senator Washington moved to dispense with the full reading of the bill.

The motion to dispense with the full reading prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Blake, Brooks, Brown, Caperton, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Montford, Santiesteban, Sarpalius, Sharp, Sims, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Mauzy, Parker, Parmer, Truan.

Absent: Traeger.

The bill as amended was finally passed by the following vote: Yeas 18, Nays 13.

Yeas: Brooks, Doggett, Glasgow, Harris, Henderson, Kothmann, Lyon, Mauzy, McFarland, Santiesteban, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire.

Nays: Blake, Brown, Caperton, Edwards, Farabee, Howard, Jones, Leedom, Montford, Parker, Parmer, Sarpalius, Williams.

MOTION TO PLACE SENATE BILL 551 ON SECOND READING

Senator Farabee moved to suspend the regular order of business to take up for consideration at this time:

S.B. 551, Relating to the gulfward boundaries of coastal home-rule cities.

The motion was lost by the following vote: Yeas 20, Nays 11. (Not receiving two-thirds vote of the Members present)

Yeas: Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, McFarland, Parmer, Santiesteban, Sarpalius, Sims, Uribe, Washington, Williams.

Nays: Blake, Brooks, Doggett, Mauzy, Montford, Parker, Sharp, Traeger, Truan, Vale, Whitmire.

SENATE BILL 728 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 728, Relating to authority of the Board of Regents of The Texas A&M University System to accept and administer donations of property, for the use of The Texas A&M University System or any of its component parts.

The bill was read second time.

Senator Caperton offered the following amendment to the bill:

Amend **S.B. 728** by renumbering SECTION 1 and 2 SECTION 2 and 3 and inserting a new SECTION 1 to read as follows:

SECTION 1. Section 85.21 of the Education Code is amended to read as follows:

Section 85.21

(a) The Board shall make bylaws, rules, and regulations it deems necessary and proper for the government of the university system and its institutions, agencies, and services. The board shall regulate the course of study and prescribe the courses of discipline necessary to enforce the faithful discharge of the duties of the officers, faculty, and students.

(b) The board is specifically authorized, upon terms and conditions acceptable to it, to accept and administer gifts, donations, grants, and endowments, from any source, for use by the system or any of the components of the system. The board may retain such funds in local fund accounts.

The amendment was read and was adopted.

On motion of Senator Caperton and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 728 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 728** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Washington.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

House Chamber
April 26, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 634, Relating to a substantive revision of the laws concerning creation, consolidation, and abolition of school districts.

H.B. 1828, Relating to the maximum interest rate on certain school district obligations.

S.B. 660, Relating to certain fees imposed by county and district court clerks.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 1076 ON SECOND READING

Senator Truan asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1076, Relating to the use of certain tools by agricultural laborers in commercial farming operations.

There was objection.

Senator Truan then moved to suspend the regular order of business and take up **S.B. 1076** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Glasgow, Kothmann, Lyon, Mauzy, Parker, Parmer, Sarpalius, Sharp, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Farabee, Henderson, Howard, Jones, Leedom, McFarland, Montford, Sims.

Absent: Harris, Santiesteban.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Amend **S.B. 1076** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 344, Acts of the 67th Legislature, Regular Session, 1981 (Article 5221j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. **USE OF CERTAIN HOES PROHIBITED.** An employer of agricultural laborers may not require an employee to use a hoe that has a handle less than four feet in length in performing agricultural labor in commercial farming operations.

Sec. 2. USE OF CERTAIN TOOLS PROHIBITED. An employer of agricultural laborers may not require an employee performing agricultural labor other than harvesting to use in a stooped position a tool or other implement for cleaning, weeding, thinning, or cultivating if the tool or implement has a handle less than four feet in length.

Sec. 3. RULEMAKING. The Department of Agriculture may adopt rules that the department determines are necessary to carry out the purposes of this Act.

Sec. 4. APPLICABILITY. This Act applies to commercial farming operations involving the tillage and cultivation of soil, except forestry, greenhouse, and nursery operations. [~~Sec. 2. EXEMPTIONS. This Act shall not apply to employers who are engaged in the operation of greenhouses or nurseries.~~]

Sec. 5 [3]. PENALTY. (a) An employer who violates a provision [Section 1] of this Act or a rule adopted under this Act commits an offense.

(b) An offense under this section is a Class C misdemeanor.

SECTION 2. This Act takes effect September 1, 1983.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Glasgow, Harris, Henderson, Jones, Kothmann, Lyon, Mauzy, Parmer, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Farabee, Howard, Leedom, McFarland, Montford, Sarpalius, Sharp.

Absent: Parker, Santiesteban.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by the following vote: Yeas 17, Nays 12.

Yeas: Blake, Brooks, Caperton, Doggett, Edwards, Glasgow, Kothmann, Lyon, Mauzy, Parker, Parmer, Truan, Uribe, Vale, Washington, Whitmire, Williams.

Nays: Brown, Farabee, Henderson, Howard, Jones, Leedom, McFarland, Montford, Sarpalius, Sharp, Sims, Traeger.

Absent: Harris, Santiesteban.

RECESS

On motion of Senator Mauzy, the Senate at 12:29 o'clock p.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
April 22, 1983

Lt. Governor William Hobby
Senator Ray Farabee
Senator Bob McFarland
Representative Charles Finnell
Representative Bill Messer

Speaker Gib Lewis
Senator Roy Blake
Representative David Cain
Representative Al Granoff
Representative Lanny Hall

Gentlemen:

The State of Texas stands to lose approximately \$75.5 million dollars in 1983 and approximately \$340 million dollars over a four year period, if legislation relating to enforcement of size and weight restrictions within city sanctuaries and enforcement of stricter fines is not enacted by the Legislature by April 30, 1983.

These two types of legislation were mandated by the Federal Highway Administration ("FHWA") when it conditioned acceptance of Texas' 1981 Size and Weight Certification on passage of this legislation. The FHWA's acceptance of certification by Texas that it is enforcing size and weight restrictions on trucks is what makes Texas eligible for federal highway funds.

Legislation eliminating city sanctuaries has already been passed this session. I commend you on your efforts in passing this bill. However, legislation enacting stiffer penalties is currently still in committee in the House. House Bill 1114 sponsored by Representative Granoff relates to stiffer penalties for failure to comply with size and weight restrictions. I urge you to expedite passage of this legislation prior to April 30.

Two additional legislative requirements are set forth in a policy statement of the FHWA published in the Federal Register and in a letter from R. A. Barnhart, Federal Highway Administrator, to me. Passage of this legislation is required prior to October, 1983. House Bills 1601 and 1602, sponsored by Representative Lanny Hall, have been filed, and these bills have been drafted to satisfy these requirements.

Because of the fiscal crisis which confronts the State of Texas, the State cannot afford to lose badly needed federal funds. I urge you to expedite passage of this legislation. Particularly important is the passage of House Bill 1114, since this legislation has been required by the FHWA since 1979. In 1979, Texas utilized an informal hearing procedure out of which came a mandate for corrective legislation of this type. To continue to ignore the mandate is to risk revenues vitally needed by the State.

I appreciate very much your cooperation and your efforts already spent toward passage of these bills, and I call upon you to continue to exert your best efforts to see that the legislation is enacted.

Yours truly,
/s/Mark White
Governor of Texas

COMMITTEE OF THE WHOLE SENATE

On motion of Senator Santiesteban and by unanimous consent, the Senate at 2:03 o'clock p.m. resolved itself into a Committee of the Whole Senate with Senator Santiesteban presiding.

IN LEGISLATIVE SESSION

The Senate was called to order as In Legislative Session at 2:55 o'clock p.m. by Senator Santiesteban.

(President in Chair)

REPORT OF STANDING COMMITTEE

Senator Santiesteban submitted the following report for the Committee of the Whole Senate:

S.B. 480 (Amended)

MEMORIAL RESOLUTION

S.R. 523 - By Sims: Memorial resolution for C. A. "Jake" Freeze.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 94 - By Parmer: Declaring Wednesday, April 27, 1983, to be Arts Award Day in Texas.

S.R. 519 - By Williams: Honoring Leonard T. Tallas.

S.R. 520 - By Sharp: Extending welcome to the Refugio Extension Homemakers.

S.R. 521 - By Williams and Doggett: Extending welcome to Jody Kahn and fellow residents of the Marbridge Foundation of Austin.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 2:57 o'clock p.m. adjourned until 11:00 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor
(April 26, 1983)

S.B. 89	S.B. 531
S.B. 176	S.B. 595
S.B. 302	S.B. 658
S.B. 316	S.B. 664
S.B. 332	S.B. 989
S.B. 333	S.B. 1095
S.B. 506	

Filed without signature of Governor
(April 26, 1983)

H.C.R. 43
H.C.R. 49
H.C.R. 66
H.C.R. 74

FIFTY-EIGHTH DAY
(Wednesday, April 27, 1983)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.